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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/664,257	09/17/2003	Jean-Philippe Wary	704-011496-US(PAR)	3385

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PERMAN & GREEN, LLP
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EXAMINER

POWERS, WILLIAM S

ART UNIT	PAPER NUMBER
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2134

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/664,257	Applicant(s) WARY, JEAN-PHILIPPE	
	Examiner William S. Powers	Art Unit 2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see Remarks, pages 5-6, filed 6/20/2007, with respect to the 35 USC 112, 2nd paragraph rejection of claims 1-9 have been fully considered and are persuasive. The 35 USC 112, 2nd paragraph rejection of claims 1-9 has been withdrawn. As such, the Examiner will use the broadest reasonable interpretation of the claim limitations in the prosecution of the application.
2. As to Applicant's argument that Layton does not disclose a telephony service provider, the argument is directed to a pending amendment and will be addressed below.
3. As to Applicant's request to identify the features in Layton that read on the features recited in the claims of the instant application, the Applicant is directed to the body of the Office Action below.
4. As to Applicant's argument that Layton is not directed to "user identity security", the Examiner can find no evidence of user identity security in the claims, either previously or in the newly amended claims. It is noted that the features upon which applicant relies (i.e., "user identity security") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Response to Amendment

Claim Objections

5. Claims 1, 2 and 4 is objected to because of the following informalities:

The Applicant has added "telephony" to further describe the service provider in the preamble of claim 1. The body of the claim refers to "the service provider". The Examiner reads this as referring to the amended telephony service provider in the preamble, but to ensure a clear record, it is requested that "telephony" be added to any reference to service provider in the body of the aforementioned claims. Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
8. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application 2002/0046353 to Kishimoto in view of US Patent No. 7,116,789 to Layton et al. (hereinafter Layton).

As to claim 1, Kishimoto teaches:

- a. The gateway has means to access content providers (mobile phone is used to create a portal (gateway) to internet content providers) (Kishimoto, paragraph [0037]).

Kishimoto does not expressly mention a user-related recording. However, in an analogous art Layton teaches a user-related recording that includes a description of the behavior that the user wishes the gateway to adopt, as a function of an identifier of the content provider (the user accidentally queries an object and the portal has turned into an advertisement for Stockmann's department store) (Layton, column 10, lines 30-39).

Therefore, one of ordinary skill in the art at the time the invention was made would have been motivated to implement accessing content providers over the internet through a mobile phone with the user-related recordings of content providers of Layton in order to more efficiently convey information to users as suggested by Layton (Layton, column 1, lines 20-24).

Kishimoto as modified further teaches:

- b. The gateway accesses the user-related recording through a first user identifier automatically known on the network and provided by the service

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provider, when the user sends a request to the content provider (flash ID that is automatically transmitted to content and service providers for authentication and billing purposes) (Kishimoto, paragraphs [0038-0039]).

c. The gateway comprises a default recording related to all the users who have not a user-related recording (The recordings accessed by the user are general in nature and do not relate to the specific personal identity of the user, just the position of the user) (Layton, column 3, line 52-column 4, line 4).

d. The gateway accesses the user-related recording through a second isolating user identifier (credit card number), during the reception of a request, concerning the user, for service on the part of the content provider (the user is further identified by credit card information so that merchandise/services can be purchased) (Layton, column 8, lines 33-43 and column 9, lines 45-63).

e. The gateway has means to link the first and second identifiers (the personal assistant of the VAPA manages the user's identity and credit card information, for instance) (Layton, column 8, lines 33-43).

As to claim 2, Kishimoto as modified teaches a user-related recording associates the first user identifier with at least one content provider identifier (the content provider is the bar "Zetor" and it accesses Nigel's name) (Layton, column 9, lines 45-65), a content provider identifier being associated with a nature for the second isolating identifier to be given to the content provider when the service provider relays a request from the user to the content provider ("Zetor" is provided with Nigel's credit card

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information to pay for the vodka and pickles ordered by Nigel) (Layton, column 8, lines 33-43 and column 9, line 45-column 10, line 5).

As to claim 3, Kishimoto as modified teaches the nature of the second isolating identifier is chosen from among at least the group formed by temporary, permanent or personalized identifiers (personalized as in a credit card) (Layton, column 8, lines 33-43 and column 9, line 45-column 10, line 5).

As to claim 4, Kishimoto as modified teaches a user-related recording associates the first user identifier with at least one content provider identifier (the content provider is the bar "Zetor" and it accesses Nigel's name) (Layton, column 9, lines 45-65), a content provider identifier being associated with at least one service that the service provider is then authorized to place at the disposal of the content provider ("Zetor" is provided with Nigel's credit card information to pay for the vodka and pickles ordered by Nigel) (Layton, column 8, lines 33-43 and column 9, line 45-column 10, line 5).

As to claim 5, Kishimoto as modified teaches a user-related recording comprises a description of a default behavior for the gateway, the default behavior being adopted by the gateway when it is no longer possible to associate the user with a content provider (the default behavior is that of a personal assistant who queries the user about his/her needs) (Layton, column 9, line 5-column 12, line 15).

As to claim 6, Kishimoto as modified teaches the user-related recording is recorded in a user database interrogated by the gateway (the portal queries the user database to access the customized recordings of the user) (Layton, column 9, line 5-column 10, line 67).

As to claim 7 Kishimoto as modified teaches the user is connected to the user database to update the recording concerning him (archiving and logging of past activity to create a record of the events specified) (Layton, column 8, lines 33-34 and column 10, lines 44-50).

As to claim 8 Kishimoto as modified teaches the user-related recording is recorded in a terminal of the user, the gateway interrogating this terminal to obtain the user-related recording (recorded in the VAPA) (Layton, column 8, lines 33-34 and column 10, lines 44-50).

As to claim 9 Kishimoto as modified teaches a default behavior of the gateway is locked by a lock that has to be opened explicitly by the user (portals are enabled as the user walks past them and they play the default behavior, advertisements and enticements, to the user) (Layton, column 11, line 64-column 12, line 15).

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William S. Powers whose telephone number is 751 272 8573. The examiner can normally be reached on m-f 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on 571 272 3811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



8/22/2007

William S. Powers
Examiner
Art Unit 2134



KAMBIZ ZAND
SUPERVISORY PATENT EXAMINER